

State of Arizona
House of Representatives
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 276

HOUSE BILL 2524

AN ACT

AMENDING SECTION 37-107, ARIZONA REVISED STATUTES; AMENDING TITLE 37, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 37-109; AMENDING SECTION 37-202, ARIZONA REVISED STATUTES; AMENDING TITLE 37, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 37-205; AMENDING SECTIONS 37-238, 37-247, 37-281.01, 37-287 AND 37-312, ARIZONA REVISED STATUTES; RELATING TO ADMINISTRATION OF STATE AND PUBLIC LAND.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 37-107, Arizona Revised Statutes, is amended to
3 read:

4 37-107. Classification and appraisal fees; deposit in state
5 general fund

6 EXCEPT AS PROVIDED IN SECTION 37-108, SUBSECTION D, classification and
7 appraisal fees collected by the department pursuant to section 37-108 shall
8 be deposited, pursuant to sections 35-146 and 35-147, in the state general
9 fund.

10 Sec. 2. Title 37, chapter 1, article 1, Arizona Revised Statutes, is
11 amended by adding section 37-109, to read:

12 37-109. Alternative payment methods

13 AT THE COMMISSIONER'S SOLE DISCRETION, THE COMMISSIONER MAY ACCEPT FEES
14 IMPOSED BY SECTION 37-108 BY ALTERNATIVE PAYMENT METHODS, INCLUDING CREDIT
15 AND CHARGE CARDS, PURSUANT TO SECTION 35-142, SUBSECTION I, DEBIT CARDS AND
16 ELECTRONIC FUNDS TRANSFERS OR OTHER ALTERNATIVE PAYMENT METHODS, PURSUANT TO
17 SECTION 35-315, BUT THE DEPARTMENT IS NOT OBLIGATED TO ACCEPT ANY PAYMENT
18 USING AN ALTERNATIVE PAYMENT METHOD.

19 Sec. 3. Section 37-202, Arizona Revised Statutes, is amended to read:

20 37-202. Selection board; powers and duties; distribution of
21 central Arizona project water to state trust lands

22 A. There is established a selection board composed of the governor,
23 the state treasurer exercising those powers of the surveyor-general with
24 respect to the selection of lands as provided in this section and the
25 attorney general.

26 B. The selection board shall do all things necessary to comply with
27 the laws of the United States and of the state in securing title to the lands
28 granted to the state in quantity or as indemnity by the enabling act, or to
29 any other lands which may be granted to the state.

30 C. The board shall file upon and select, and cause to be withdrawn and
31 surveyed for selection, lands the commissioner from time to time recommends
32 for selection or for withdrawal and survey.

33 D. The selection board shall cancel, relinquish and release the claim
34 of the state and reconvey to the United States any tract of land erroneously
35 listed to the state or any tract upon which, at the time of selection or
36 withdrawal, a bona fide claim has been initiated by an actual settler.

37 E. The board shall designate which of the lands selected shall be
38 assigned to each specific fund designated in the grants made to the state by
39 the United States. The selections shall be apportioned among the various
40 grants so that each fund shall receive as nearly as possible its pro rata
41 share of the different classes of land selected.

42 F. The board shall determine the distribution of all central Arizona
43 project water allocated for the benefit of state trust lands. All
44 allocations of central Arizona project water made by the selection board

1 shall be used on state trust lands except that if state trust lands to which
2 central Arizona project waters have been allocated are sold, then the central
3 Arizona project water allocated to those lands may be used on those lands.
4 All allocations of central Arizona project water made by the selection board
5 shall conform to the Arizona state water plan administered by the department
6 of water resources. Allocations greater than ten per cent of the total
7 amount of central Arizona project water available to the state for the
8 benefit of state trust lands shall require legislative approval by concurrent
9 resolution before such allocation is available for use.

10 G. IF STATE LAND IS INCLUDED IN A PROPOSED CORPORATE LIMIT OF A
11 MUNICIPALITY, THE SELECTION BOARD, AT THE COMMISSIONER'S REQUEST, MAY RENDER
12 A DETERMINATION APPROVING OR REJECTING THE INCLUSION OF THE STATE LAND IN THE
13 PROPOSED CORPORATE LIMIT.

14 Sec. 4. Title 37, chapter 2, article 1, Arizona Revised Statutes, is
15 amended by adding section 37-205, to read:

16 37-205. Costs related to disposition of land

17 A. IN ADDITION TO OTHER FEES REQUIRED BY THIS TITLE, THE COMMISSIONER
18 MAY REQUIRE OR ALLOW AN APPLICANT TO ADVANCE OR INCUR COSTS FOR EVALUATING
19 AND PROCESSING AN APPLICATION FOR A SALE, LEASE, RIGHT-OF-WAY OR OTHER USE
20 PERMIT, INCLUDING CULTURAL RESOURCE INVESTIGATIONS, LEGAL LAND SURVEYS,
21 ENVIRONMENTAL ASSESSMENTS AND ECONOMIC CONSULTING, ENGINEERING, PLANNING,
22 LEGAL OR GEOLOGICAL STUDIES.

23 B. IF THE SUCCESSFUL BIDDER AT AN AUCTION IS NOT THE APPLICANT, THE
24 SUCCESSFUL BIDDER SHALL REIMBURSE THE APPLICANT FOR FEES AND COSTS PAID
25 PURSUANT TO THIS SECTION IN AMOUNTS AND ON TERMS AS THE COMMISSIONER OR THE
26 COMMISSIONER'S DESIGNEE DIRECTS IN THE AUCTION NOTICE. AFTER RECEIVING THE
27 REIMBURSEMENT AMOUNTS, THE COMMISSIONER SHALL REMIT THEM TO THE APPLICANT.

28 C. IF AN AUCTION DOES NOT OCCUR OR A TRANSACTION IS OTHERWISE NOT
29 COMPLETED AS A RESULT OF A MISTAKE OR CIRCUMSTANCES CAUSED BY THE DEPARTMENT,
30 INCLUDING ISSUES ARISING OUT OF CONCERNS OVER TITLE, MISIDENTIFICATION OF THE
31 PARCEL AND FACTORS AFFECTING THE COMMISSIONER'S VIEW OF THE TIMELINESS OR
32 DESIRABILITY OF DISPOSING OF THE PARCEL, THEN THE COMMISSIONER, ON THE TIMELY
33 WRITTEN REQUEST OF AN APPLICANT, MAY REIMBURSE OR CAUSE TO BE REIMBURSED TO
34 THE APPLICANT, ON TERMS THAT THE COMMISSIONER CONSIDERS REASONABLE AND
35 APPROPRIATE, FROM MONIES OF THE DEPARTMENT ALL OR PART OF THE COSTS PAID
36 PURSUANT TO THIS SECTION. THE REIMBURSEMENT MAY ONLY BE FOR COSTS THAT THE
37 COMMISSIONER DETERMINES TO REPRESENT AN ENHANCEMENT OF KNOWLEDGE ABOUT THE
38 PARCEL OR THAT TANGIBLY OR INTANGIBLY ENHANCE THE VALUE OF THE PARCEL. THE
39 COMMISSIONER MAY REFUSE ANY REIMBURSEMENT REQUEST FOR ANY REASON.

40 Sec. 5. Section 37-238, Arizona Revised Statutes, is amended to read:

41 37-238. Procedure for sale; report of sale

42 A. A representative of the state land department shall attend at the
43 time and place fixed for the sale and proceed by first reading the notice
44 published ANNOUNCING INFORMATION RELEVANT TO THE SALE SUFFICIENT, IN THE

1 REPRESENTATIVE'S JUDGMENT, TO BEGIN THE BIDDING PROCESS, then calling for
2 bids and selling the lands for the highest and best bid.

3 B. The department shall prepare a written report of the sale.

4 C. The sale may be adjourned from day to day, or the department may
5 dissolve the sale and readvertise the lands.

6 Sec. 6. Section 37-247, Arizona Revised Statutes, is amended to read:

7 37-247. Forfeiture and cancellation of certificate of purchase
8 on default of purchaser; extension of time for
9 payments

10 A. When a purchaser defaults in a payment of principal or interest,
11 as provided in the certificate of purchase, or fails to comply with a
12 condition, covenant or requirement thereof, the certificate shall be declared
13 subject to forfeiture. Within sixty days after default or failure the
14 department shall give notice thereof by registered OF THE DEFAULT OR FAILURE
15 BY CERTIFIED mail to the purchaser's last known address of record in the
16 department.

17 B. If the payment is not made, or the condition, covenant or
18 requirement is not complied with, within sixty days from the date of notice,
19 the certificate of purchase and all rights of the purchaser to the land and
20 improvements thereon may be canceled. In the event of cancellation, the
21 commissioner shall make a formal order canceling the certificate of purchase
22 and a copy of the order shall be mailed to the last known post-office address
23 of the holder of the certificate of purchase. If no appeal is made within
24 thirty days from the date a copy of the order is mailed to the holder of the
25 certificate of purchase, the order shall become final and the certificate of
26 purchase SHALL BE canceled on the records of the department, and the
27 improvements and all payments made on the purchase price shall be deemed
28 rental for the land.

29 C. The department may, upon application within sixty days from the
30 date of notice of forfeiture as provided in subsection A, extend the time for
31 payment of the amount delinquent for a period of not more than five years ON
32 TERMS THAT THE DEPARTMENT CONSIDERS TO BE APPROPRIATE. THE EXTENSION BEGINS
33 ON THE DATE OF NOTICE OF FORFEITURE AND CONTINUES FOR THE PERIOD OF TIME
34 STATED IN A WRITTEN NOTICE TO THE PURCHASER. IF THE DEPARTMENT DOES NOT ACT
35 ON AN APPLICATION FOR EXTENSION WITHIN THIRTY DAYS AFTER RECEIVING THE
36 APPLICATION, THE APPLICATION IS CONSIDERED TO BE DENIED. If the purchaser
37 fails within the five-year DURING THE period OF THE EXTENSION to complete all
38 delinquent payments, including principal and interest, the certificate of
39 purchase shall automatically be canceled and noted on the records of the
40 department.

1 Sec. 7. Section 37-281.01, Arizona Revised Statutes, is amended to
2 read:

3 37-281.01. Lease of state lands for grazing purposes; notice

4 A. All state lands are subject to lease as provided in this article
5 for a term of not more than ten years for grazing purposes without public
6 auction. In addition to the requirements of section 37-281, subsections B,
7 C, D and E, the leases shall be granted according to the constitution and
8 laws of this state and rules of the department.

9 B. The department shall give notice of the availability of expiring
10 grazing leases on state lands by advertisement, published in December of each
11 year, at least one year in advance of the expiration date of any grazing
12 lease. ~~The notice shall be published in a newspaper with general statewide~~
13 ~~circulation. The advertisement shall indicate the expiring lease number, the~~
14 ~~location by county or counties, expiration date and location of posting for~~
15 ~~additional information. THE NOTICE SHALL BE PUBLISHED AT LEAST ONCE IN A~~
16 ~~NEWSPAPER OF GENERAL CIRCULATION, INDICATING THE NUMBER OF LEASES EXPIRING,~~
17 ~~THE COUNTY OR COUNTIES WHERE EACH LEASE IS LOCATED AND THE LOCATION OF~~
18 ~~POSTING THE NOTICE WHERE ADDITIONAL INFORMATION MAY BE OBTAINED. THE~~
19 ~~NEWSPAPER THAT PRINTS THE NOTICE MAY ALSO POST THE NOTICE ON AN INTERNET WEB~~
20 ~~SITE THAT AGGREGATES LEGAL NOTICES OF TEN OR MORE ARIZONA NEWSPAPERS. The~~
21 ~~department shall post notice of expiring leases by lease number, abbreviated~~
22 ~~legal description of the lease area, carrying capacity, expiration date and~~
23 ~~application information in the following locations:~~

- 24 1. In each department office.
- 25 2. On the department's internet web site.
- 26 3. In the office or offices of the county board of supervisors where
27 the land is located.
- 28 4. In United States bureau of land management offices in this state
29 where posting is allowed.

30 Sec. 8. Section 37-287, Arizona Revised Statutes, is amended to read:

31 37-287. Reservation of rights in state land leases

32 A. UNLESS THE RIGHTS AND INTERESTS DESCRIBED IN THIS SECTION ARE
33 SPECIFICALLY INCLUDED IN A PARTICULAR LEASE, ALL leases of state lands shall
34 expressly except and reserve to the state:

35 1. All oils, gases, geothermal resources, coal, ores, minerals,
36 fertilizer and fossils of every kind, which may be in or upon the land
37 leased. , and

38 2. Any legal claim existing or which may be established under the
39 mineral land laws of the United States or the state. , and shall reserve to
40 the state.

41 3. The right to enter upon the land for the purpose of exploring for
42 those commodities or extracting any or all of such commodities from the land.
43 Such leases shall further reserve

1 4. The right to relinquish to the United States lands needed for
2 irrigation works in connection with a government reclamation project, and to
3 grant or dispose of rights-of-way and sites for canals, reservoirs, dams,
4 power or irrigating plants or works, railroads, tramways, transmission lines
5 or any other purpose or use on or over the land.

6 B. The reservations of rights required in subsection A do not apply
7 to existing or future leases under article 5.1 of this chapter, except as
8 required by the state constitution, the enabling act or the commissioner
9 acting in the best interests of the state lands.

10 C. If the state reserves the rights described in subsection A, the
11 lease shall provide for reasonable compensation to the lessee for any damage
12 resulting from the exercise of those rights.

13 Sec. 9. Section 37-312, Arizona Revised Statutes, is amended to read:
14 37-312. Nominating and classifying trust land as suitable for

15 conservation purposes

16 A. On the commissioner's initiative, or on petition as provided by
17 subsection C of this section, the commissioner may nominate certain trust
18 lands as being under consideration for classification as trust lands suitable
19 for conservation purposes. The commissioner shall not nominate trust lands
20 as being under consideration for classification as trust lands suitable for
21 conservation purposes unless the trust lands are eligible for classification
22 under this section and are located within:

23 1. One mile of the corporate boundaries of an incorporated city or
24 town having a population of less than ten thousand persons according to the
25 most recent United States decennial census.

26 2. Three miles of the corporate boundaries of an incorporated city or
27 town having a population of ten thousand persons or more according to the
28 most recent United States decennial census.

29 3. Ten miles of the boundaries that are established in paragraph 1 or
30 2 of this subsection and that are located within counties with a population
31 greater than five hundred thousand persons according to the most recent
32 United States decennial census and are adjacent to lands that are eligible
33 for conservation and share with them a specific physical characteristic such
34 as a reach of a river, a mountain slope or an archaeological feature.

35 B. In addition to the lands identified in subsection A, paragraphs 1
36 through 3 of this section, the following lands may be nominated for
37 reclassification by the commissioner:

38 1. Those lands within the Tortolita mountain park in Pinal county
39 located within T10S, R12E and T10S, R13E.

40 2. Those lands in the vicinity of the Superstition mountains in Pinal
41 county located within T1N, R9E; T1N, R10E; T1S, R9E; and T1S, R10E.

42 3. Those lands in the vicinity of the San Tan mountains in Pinal
43 county located within T3S, R7E, section 10, the northwest quarter of the

1 southeast quarter and the south half of the southeast quarter; section 15,
2 the north half and southeast quarter.

3 4. The following lands located in Coconino county:

4 (a) T19N, R5E, section 3.

5 (b) T19N, R6E, sections 5 and 6.

6 (c) T20N, R5E, sections 2, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30,
7 32, 34 and 36.

8 (d) T20N, R6E, sections 4, 5, 6, 8, 10, 14, 17, 18, 20, 22, 26, 28,
9 30, 32 and 34.

10 (e) T21N, R6E, sections 21, 22, 28, 31, 32 and 33.

11 C. The commissioner shall receive a petition to nominate trust lands
12 as being under consideration for classification as trust lands suitable for
13 conservation purposes from:

14 1. A state agency that leases the land or intends to lease or purchase
15 the land.

16 2. The board of supervisors of the county in which the land is
17 located.

18 3. The governing body of a city or town if the land is located within:

19 (a) The corporate boundaries of the city or town.

20 (b) One mile outside the corporate boundaries and the city or town has
21 a population of less than ten thousand persons.

22 (c) Three miles outside the corporate boundaries and the city or town
23 has a population of ten thousand persons or more.

24 4. Ten or more private individuals who:

25 (a) Reside in the county in which the land is located.

26 (b) Have the financial capability to lease or purchase the land.

27 5. A nonprofit corporation or trust, the purpose or powers of which
28 include conservation of natural, scenic, open space or other conservation
29 values.

30 6. The current lessee of the land.

31 7. A business or corporation that is legally empowered to own or
32 manage real property in this state and that intends to lease or purchase the
33 land.

34 D. The petitioner shall post a bond or other security sufficient to
35 cover the costs of the planning, notice, advertisement and public hearing as
36 required by this article and as determined by the commissioner. The bond or
37 security is forfeit to this state if the commissioner reclassifies the land
38 pursuant to this article.

39 E. The commissioner shall not nominate or classify trust land as
40 suitable for conservation purposes if a development plan was approved for the
41 land pursuant to article 5.1 of this chapter before July 26, 1996. The
42 commissioner may nominate and classify trust land as suitable for
43 conservation purposes in an area within a development plan approved after

1 July 26, 1996 if appropriate conservation purposes are incorporated within
2 the development plan prepared for the commissioner's approval.

3 F. After nominating the trust lands under subsection A or B of this
4 section, the commissioner shall:

5 1. Mail notice of intent to classify the lands as trust lands suitable
6 for conservation purposes to existing lessees, local planning authorities,
7 the appropriate regional planning authorities and owners of property PRIVATE
8 LAND that CONSISTS OF FORTY OR MORE ACRES AND THAT is located within three
9 hundred feet of the trust land. The notice shall include the date, time and
10 place of the public hearing to be held pursuant to subsection G of this
11 section AND A REQUEST FOR WRITTEN COMMENTS ON THE PROPOSED CLASSIFICATION
12 WITHIN THIRTY DAYS AFTER THE DATE OF NOTICE.

13 2. Within thirty days after giving the notice under paragraph 1 of
14 this subsection:

15 (a) Publish the notice stating a date, time and place of a public
16 hearing for six publications in a newspaper of general circulation in the
17 county in which the designated lands are located.

18 (b) Mail the notice to any person who has requested notice of any
19 classification under this article.

20 (c) Mail the notice to the Arizona game and fish department, the
21 Arizona department of agriculture, the Arizona state parks board, the Arizona
22 department of transportation and any other affected state agency.

23 G. Within sixty days after the last date of publication of notice
24 under subsection F of this section, the commissioner or the commissioner's
25 designee shall conduct a public hearing in a location in this state as close
26 as conveniently possible to the trust land to receive and record oral and
27 written testimony concerning the proposed classification.

28 H. In determining whether reclassification is in the best interest of
29 the trust, the commissioner shall:

30 1. Consult with the governing body of each city or town in which the
31 land proposed for reclassification is located or to which the land is
32 contiguous, the county board of supervisors of each county in which the land
33 is located if the land is not located within the boundaries of a city or town
34 and the local planning and zoning authorities, including the affected
35 regional planning authorities.

36 2. Consider recommendations of the conservation advisory committee.

37 3. Consider all evidence and testimony that are submitted at the
38 hearing under subsection G of this section.

39 4. Consider the physical and economic impacts that the
40 reclassification would have on other lands owned or controlled by the current
41 lessee and the physical and economic impacts on the local community.

42 5. Consider the existence of any holding lease on the lands.

43 6. Consider the existence of any planning permit issued by the
44 commissioner for the lands pursuant to article 5.1 of this chapter.

1 7. Consider the amount of progress on any development plans being
2 completed for the lands pursuant to article 5.1 of this chapter.

3 8. Evaluate the mineral potential of the land.

4 I. The commissioner shall determine whether the reclassification is
5 in the best interest of the trust and, in making the determination, shall
6 state in writing the reasons why the classification is or is not in the best
7 interests of the trust.

8 J. If the commissioner reclassifies the trust land as suitable for
9 conservation purposes, the commissioner shall adopt a plan to allow existing
10 and conservation uses to be coordinated in a manner that will protect both
11 existing uses and conservation and open space values. If the reclassified
12 trust land is unleased or the petitioner is the lessee pursuant to subsection
13 C, paragraph 6 of this section, the commissioner may require a plan from the
14 petitioners describing how the property PROPERTY is to be managed. In
15 adopting the plan, the commissioner shall consult with:

16 1. The conservation advisory committee.

17 2. The governing body of the city or town if the land is located in
18 a city or town.

19 3. The county board of supervisors if the land is not located in a
20 city or town.

21 4. Existing lessees of the trust land, local and regional planning
22 authorities and owners of private land ~~that is located within three hundred~~
23 ~~feet of the trust land~~ WHO PROVIDED WRITTEN COMMENTS PURSUANT TO SUBSECTION
24 F, PARAGRAPH 1 OF THIS SECTION.

25 5. Any other person or entity that the commissioner considers to be
26 necessary.

27 K. The classification of state land as suitable for conservation does
28 not affect the designation or use of adjacent federal, state or private land.

29 L. A person who is adversely affected by the commissioner's decision
30 to reclassify land as suitable for conservation purposes may appeal the
31 decision to the board of appeals pursuant to section 37-215.

32 M. On classifying trust lands suitable for conservation purposes,
33 existing leases shall not be canceled or modified as a result of any actions
34 taken pursuant to this article, and renewals of existing leases shall be
35 pursuant to section 37-291.

APPROVED BY THE GOVERNOR APRIL 30, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2001.

Passed the House March, 2001,

Passed the Senate April 25, 2001,

by the following vote: 59 Ayes,

by the following vote: 20 Ayes,

0 Nays, 1 Not Voting

8 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

 day of , 20 ,

at o'clock M.

Secretary to the Governor

Approved this day of

 , 20 ,

at o'clock M.

Governor of Arizona

H.B. 2524

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this day of , 20 ,

at o'clock M.

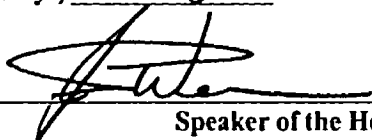
Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

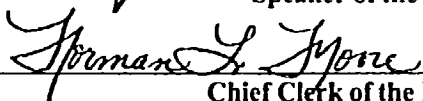
April 26, 2001,

by the following vote: 52 Ayes,

0 Nays, 8 Not Voting



Speaker of the House



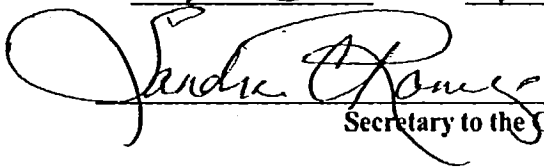
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

27 day of April, 2001,

at 9:30 o'clock A M.



Secretary to the Governor

Approved this 30 day of

April, 2001,

at 5:15 o'clock P M.



Governor of Arizona

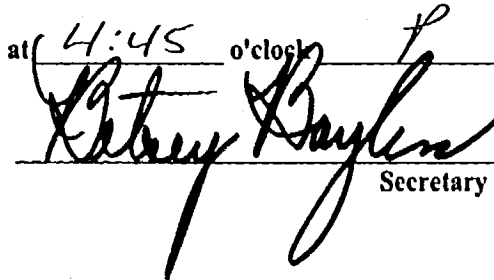
H.B. 2524

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 1 day of May, 2001,

at 4:45 o'clock P M.



Secretary of State